

## **CUSTOMS ACT, 1962**

[Act No. 52 of Year 1962 dated 13th. December, 1962]

An Act to consolidate and amend the law relating to customs.

Be it enacted by Parliament in the Thirteenth Year of the Republic of India as follows: -

### **CHAPTER-I PRELIMINARY**

#### **1. Short title, extent and commencement**

(1) This Act may be called the Customs Act, 1962.

1[(2) It extends to the whole of India.]

(3) It shall come into force on such date<sup>2</sup> as the Central Government may, by notification in the Official Gazette, appoint.

#### **2. Definitions**

In this Act, unless the context otherwise requires-

3[(1) "**adjudicating authority**" means any authority competent to pass any order or decision under this Act, but does not include the Board, Commissioner (Appeals) or Appellate Tribunal;

(1A) "**aircraft**" has the same meaning as in the Aircraft Act, 1934 (22 of 1934);

(1B) "**Appellate Tribunal**" means the Customs, Excise and Gold (Control) Appellate Tribunal constituted under section 129;]

(2) "**assessment**" includes provisional assessment, reassessment and any order of assessment in which the duty assessed is nil;

(3) "**baggage**" includes unaccompanied baggage but does not include motor vehicles;

(4) "**bill of entry**" means a bill of entry referred to in section 46;

(5) "**bill of export**" means a bill of export referred to in section 50;

(6) "**Board**" means the 4[Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963 (54 of 1963)];

(7) "**coastal goods**" means goods, other than imported goods, transported in a vessel from one port in India to another;

5[(7A) "**Commissioner (Appeals)**" means a person appointed to be a Commissioner of Customs (Appeals) under sub-section (1) of section 4;]

(8) "**Commissioner of Customs**" , except for the purposes of Chapter XV, includes an Additional Commissioner of Customs;

(9) "**conveyance**" includes a vessel, an aircraft and a vehicle;

(10) "**customs airport**" means any airport appointed under clause (a) of section 7 to be a customs airport;

(11) "**customs area**" means the area of a customs station and includes any area in which

imported goods or export goods are ordinarily kept before clearance by customs authorities;

(12) "**customs port**" means any port appointed under clause (a) of section 7 to be a customs port 6[and includes a place appointed under clause (aa) of that section to be an inland container depot];

(13) "**customs station**" means any customs port, customs airport or land customs station;

(14) "**dutiable goods**" means any goods which are chargeable to duty and on which duty has not been paid:

(15) "**duty**" means a duty of customs leviable under this Act;

(16) "**entry**" in relation to goods means an entry made in a bill of entry, shipping bill or bill of export and includes in the case of goods imported or to be exported by post, the entry referred to in section 82 or the entry made under the regulations made under section 84;

(17) "**examination**", in relation to any goods, includes measurement and weighment thereof;

(18) "**export**", with its grammatical variations and cognate expressions, means taking out of India to a place outside India;

(19) "**export goods**" .means any goods which are to be taken out of India to a place outside India;

(20) "**exporter**", in relation to any goods at any time between their entry for export and the time when they are exported, includes any owner or any person holding himself out to be the exporter;

(21) "**foreign-going vessel or aircraft**" means any vessel or aircraft for the time being engaged in the carriage of goods or passengers between any port or airport in India and any port or airport outside India, whether touching any intermediate port or airport in India or not, and includes-

(i) any naval vessel of a foreign government taking part in any naval exercises;

(ii) any vessel engaged in fishing or any other operations outside the territorial waters of India;

(iii) any vessel or aircraft proceeding to a place outside India for any purpose whatsoever;

7[(21A) "**Fund**" means the Consumer Welfare Fund established under section 12C of the Central Excises and Salt Act, 1944 (1 of 1944);]

(22) "**goods**" includes-

(a) vessels, aircraft and vehicles;

(b) stores;

(c) baggage;

(d) currency and negotiable instruments; and

(e) any other kind of movable property;

(23) "**import**", with its grammatical variations and cognate expressions, means bringing into India from a place outside India;

(24) "**import manifest**" or "**import report**" means the manifest or report required to be delivered under section 30;

(25) "**imported goods**" means any goods brought into India from a place outside India but does not include goods which have been cleared for home consumption;

(26) "**importer**", in relation to any goods at any time between their importation and the time when they are cleared for home consumption, includes any owner or any person holding himself out to be the importer;

(27) "**India**" includes the territorial waters of India;

(28) "**Indian customs waters**" means the 8[waters extending into the sea up to the limit of contiguous zone of India under section 5 of the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976 (80 of 1976)] and includes any bay, gulf, harbour, creek, or tidal river;

(29) "**land customs station**" means any place appointed under clause (b) of section 7 to be a land customs station;

(30) "**market price**", in relation to any goods, means the wholesale price of the goods in the ordinary course of trade in India;

(31) "**person-in-charge**" means-

(a) in relation to a vessel, the master of the vessel;

(b) in relation to an aircraft, the commander or pilot-in-charge of the aircraft;

(c) in relation to a railway train, the conductor, guard or other person having the chief direction of the train;

(d) in relation to any other conveyance, the driver or other person-in-charge of the conveyance;

(32) "**prescribed**" means prescribed by regulations made under this Act;

(33) "**prohibited goods**" means any goods the import or export of which is subject to any prohibition under this Act or any other law for the time being in force but does not include any such goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with;

(34) "**proper officer**", in relation to any functions to be performed under this Act, means the officer of customs who is assigned those functions by the Board or the 5[Commissioner of Customs;]

(35) "**regulations**" means the regulations made by the Board under any provision of this Act;

(36) "**rules**" means the rules made by the Central Government under any provision of this Act;

(37) "**shipping bill**" means a shipping bill referred to in section 50;

(38) "**stores**" means goods for use in a vessel or aircraft and includes fuel and spare parts and other articles of equipment, whether or not for immediate fitting;

(39) "**smuggling**", in relation to any goods, means any act or omission which will render such goods liable to confiscation under section 111 or section 113;

(40) "**tariff value**", in relation to any goods, means the tariff value fixed in respect thereof under sub-section (2) of section 14;

(41) "**value**", means relation to any goods, means the value thereof determined in accordance with the provisions of sub-section (1) of section 14;

(42) "**vehicle**" means conveyance of any kind used on land and includes a railway vehicle;

(43) "**warehouse**" means a public warehouse appointed under section 57 or private ware house licensed under section 58;

(44) "**warehoused goods**" means goods deposited in a warehouse;

(45) "**warehousing station**" means a place declared as a warehousing station under section 9.

## **CHAPTER II OFFICERS OF CUSTOMS**

### **5[3.Classes of officers of customs**

There shall be the following classes of officers of customs, namely:

(a) Chief Commissioners of Customs;

(b) Commissioner of Customs;

(c) Commissioners of Customs (Appeals);

9[(cc) Joint Commissioners of Customs;]

(d) Deputy Commissioners of Customs;

(e) Assistant Commissioners of Customs; and

(f) such other class of officers of customs as may be appointed for the purposes of this Act.]

### **5[4. Appointment of officers of customs**

(1) The Central Government may appoint such persons as it thinks fit to be officers of customs.

(2) Without prejudice to the provisions of sub-section (1),the Central Government may authorise the Board, a Commissioner of Customs or a Deputy or Assistant Commissioner of Customs 9[or Deputy Commissioner of Customs] to appoint officers of customs below the rank of Assistant Commissioner of Customs 9[or Deputy Commissioner of Customs].]

### **5. Powers of officers of customs**

(1) Subject to such conditions and limitations as the Board may impose, an officer of customs may exercise the powers and discharge the duties conferred or imposed on him under this Act.

(2) An officer of customs may exercise the powers and discharge the duties conferred or imposed under this Act on any other officer of customs who is subordinate to him.

(3) Notwithstanding anything contained in this section 5[a Commissioner (Appeals)] shall not exercise the powers and discharge the duties conferred or imposed on an officer of customs other than those specified in Chapter XV and section 108.

#### **6. Entrustment of functions of Board and Customs Officers on certain other officers**

The Central Government may, by notification in the Official Gazette, entrust either conditionally or unconditionally to any officer of the Central or the State Government or a local authority any functions of the Board or any officer of customs under this Act.

### **CHAPTER III APPOINTMENT OF CUSTOMS PORTS, AIRPORTS, WAREHOUSING STATIONS, ETC.**

#### **7. Appointment of customs ports, airports, etc.**

The Central Government may, by notification in the Official Gazette, appoint-

(a) the ports and airports which alone shall be customs ports or customs airports for the unloading of imported goods and the loading of export goods or any class of such goods;

6[(aa) the places which alone shall be inland container depots for the unloading of imported goods and the loading of export goods or any class of such goods;]

(b) the places which alone shall be land customs stations for the clearance of goods imported or to be exported by land or inland water or any class of such goods.

(c) the routes by which alone goods or any class of goods specified in the notification may pass by land or inland waters into or out of India, or to or from any land customs station from or to any land frontier;

(d) the ports which alone shall be coastal ports for the carrying on of trade in coastal goods or any class of such goods with all or any specified ports in India.

#### **8. Power to approve landing places and specify limits of customs area**

The 5[Commissioner of Customs] may-

(a) approve proper places in any customs port or customs airport or coastal port for the unloading and loading of goods or for any class of goods;

(b) specify the limits of any customs area.

#### **9. Power to declare places to be warehousing stations**

The Board may, by notification in the Official Gazette, declare places to be warehousing stations at which alone public warehouses may be appointed and private warehouses may be licensed.

#### **10. Appointment of boarding stations**

The 5[Commissioner of Customs] may, by notification in the Official Gazette, appoint, in or near any customs port, a boarding station for the purpose of boarding of, or disembarkation from, vessels by officers of customs.

### **CHAPTER IV PROHIBITIONS ON IMPORTATION AND EXPORTATION OF GOODS**

#### **11. Power to prohibit importation or exportation of goods**

(1) If the Central Government is satisfied that it is necessary so to do for any of the purposes specified in sub-section (2), it may, by notification in the Official Gazette, prohibit either absolutely or subject to such conditions (to be fulfilled before or after clearance) as may be specified in the notification, the import or export of goods of any specified description.

(2) The purposes referred to in sub-section (1) are the following:-

(a) the maintenance of the security of India;

- (b) the maintenance of public order and standards of decency or morality;
- (c) the prevention of smuggling;
- (d) the prevention of shortage of goods of any description;
- (e) the conservation of foreign exchange and the safeguarding of balance of payments;
- (f) the prevention of injury to the economy of the country by the uncontrolled import or export of gold or silver;
- (g) the prevention of surplus of any agricultural product or the product of fisheries;
- (h) the maintenance of standards for the classification, grading or marketing of goods in international trade;
- (i) the establishment of any industry;
- (j) the prevention of serious injury to domestic production of goods of any description;
- (k) the protection of human, animal or plant life or health;
- (l) the protection of national treasures of artistic, historic or archaeological value;
- (m) the conservation of exhaustible natural resources;
- (n) the protection of patents, trademarks and copyrights;
- (o) the prevention of deceptive practices;
- (p) the carrying on of foreign trade in any goods by the State, or by a corporation owned or controlled by the State to the exclusion, complete or partial, of citizens of India.
- (q) the fulfilment of obligations under the Charter of the United Nations for the maintenance of international peace and security;
- (r) the implementation of any treaty, agreement or convention with any country;
- (s) the compliance of imported goods with any laws which are applicable to similar goods produced or manufactured in India;
- (t) the prevention of dissemination of documents containing any matter which is likely to prejudicially affect friendly relations with any foreign State or is derogatory to national prestige;
- (u) the prevention of the contravention of any law for the time being in force; and
- (v) any other purpose conducive to the interests of the general public.

## **10[CHAPTER IVA : DETECTION OF ILLEGALLY IMPORTED GOODS AND PREVENTION OF THE DISPOSAL THEREOF**

### **11A. Definitions**

In this Chapter, unless the context otherwise requires,-

- (a) "**illegal import**" means the import of any goods in contravention of the provisions of this Act or

any other law for the time being in force;

(b) "**intimated place**" means a place intimated under sub-section (1), sub-section (2) or sub-section (3), as the case may be, of section 11C;

(c) "**notified date**", in relation to goods of any description, means the date on which the notification in relation to such goods is issued under section 11B;

(d) "**notified goods**" means goods specified in the notification issued under section 11B.

#### **11B. Power of Central Government to notify goods**

If, having regard to the magnitude of the illegal import of goods of any class or description, the Central Government is satisfied that it is expedient in the public interest to take special measures for the purpose of checking the illegal import, circulation or disposal of such goods, or facilitating the detection of such goods, it may, by notification in the Official Gazette, specify goods of such class or description.

#### **11C. Persons possessing notified goods to intimate the place of storage, etc.**

(1) Every person who owns, possesses or controls, on the notified date, any notified goods, shall, within seven days from that date, deliver to the proper officer a statement (in such form, in such manner and containing such particulars as may be specified by rules made in this behalf) in relation to the notified goods owned, possessed or controlled by him and the place where such goods are kept or stored.

(2) Every person who acquires, after the notified date, any notified goods, shall, before making such acquisition, deliver to the proper officer an intimation containing the particulars of the place where such goods are proposed to be kept or stored after such acquisition and shall, immediately on such acquisition, deliver to the proper officer a statement (in such form, in such manner and containing such particulars as may be specified by the rules made in this behalf, in relation to the notified goods acquired by him:

PROVIDED that a person who has delivered a statement, whether under sub-section (1) or sub-section (2) in relation to any notified goods, owned, possessed, controlled or acquired by him, shall not be required to deliver any further statement in relation to any notified goods acquired by him, after the date of delivery of the said statement, so long as the notified goods so acquired are kept or stored at the intimated place.

(3) If any person intends to shift any notified goods to any place other than the intimated place, he shall, before taking out such goods from the intimated place, deliver to the proper officer an intimation containing the particulars of the place to which such goods are proposed to be shifted.

(4) No person shall, after the expiry of seven days from the notified date, keep or store any notified goods at any place other than the intimated place.

(5) Where any notified goods have been sold or transferred, such goods shall not be taken from one place to another unless they are accompanied by the voucher referred to in section 11F.

(6) No notified goods (other than those which have been sold or transferred) shall be taken from one place to another unless they are accompanied by a transport voucher (in such form and containing such particulars as may be specified by the rules made in this behalf) prepared by the persons owning, possessing or controlling such goods.

#### **11D. Precautions to be taken by persons acquiring notified goods**

No person shall acquire (except by gift or succession, from any other individual in India), after the notified date, any notified goods-

(i) unless such goods are accompanied by,-

(a) the voucher referred to in section 11F or the memorandum referred to in sub-section (2) of section 11G, as the case may be; or

(b) in the case of a person who has himself imported any goods, any evidence showing clearance of such goods by the customs authorities; and

(ii) unless he has taken, before acquiring such goods from a person other than a dealer having a fixed place of business, such reasonable steps as may be specified by rules made in this behalf, to ensure that the goods so acquired by him are not goods which have been illegally imported.

#### **11E. Persons possessing notified goods to maintain accounts**

(1) Every person who, on or after the notified date, owns, possesses, controls or acquires any notified goods shall maintain (in such form and in such manner as may be specified by rules made in this behalf) a true and complete account of such goods and shall, as often as he acquires or parts with any notified goods, made an entry in the said account in relation to such acquisition or parting with, and shall also state therein the particulars of the persons from whom such goods have been acquired or in whose favour such goods have been parted with, as the case may be, and such account shall be kept, along with the goods, at the place of storage of the notified goods to which such accounts relate:

PROVIDED that it shall not be necessary to maintain separately accounts in the form and manner specified by the rules made in this behalf in the case of a person who is already maintaining accounts which contain the particulars specified by the said rules.

(2) Every person who owns, possesses or controls any notified goods and who uses any such goods for the manufacture of any other goods, shall maintain (in such form, in such manner and containing such particulars as may be specified by rules made in this behalf) a true and complete account of the notified goods so used by him and shall keep such account at the intimated place.

#### **11F. Sale, etc, of notified goods to be evidenced by vouchers**

On and from the notified date, no person shall sell or otherwise transfer any notified goods, unless every transaction in relation to the sale or transfer of such goods is evidenced by a voucher in such form and containing such particulars as may be specified by rules made in this behalf.

#### **11G. Sections 11C, 11E, and 11F not to apply to goods in personal use**

(1) Nothing in sections 11C , 11E and 11F shall apply to any notified goods which are-

(a) in personal use of the person by whom they are owned, possessed or controlled, or

(b) kept in the residential premises of a person for his personal use.

(2) If any person, who is in possession of any notified goods referred to in sub-section (1), sells, or otherwise transfers for a valuable consideration, any such goods, he shall issue to the purchaser or transferee, as the case may be, a memorandum containing such particulars as may be specified by the rules made in this behalf and no such goods shall be taken from one place to another unless they are accompanied by the said memorandum.

## **CHAPTER IV B PREVENTION OR DETECTION OF ILLEGAL EXPORT OF GOODS**

### **11H. Definitions**

In this Chapter, unless the context otherwise requires,-

(a) "**illegal export**" means the export of any goods in contravention of the provisions of this Act or any other law for the time being in force;

(b) "**intimated place**" means a place intimated under sub-section (1), sub-section (2) or sub-section (3), as the case may be, of section 11J;

(c) "**specified area**" includes the Indian customs waters, and such inland area, not exceeding one hundred kilometres in width from any coast or other border of India, as the Central Government may, having regard to the vulnerability of that area to smuggling, by notification in the Official Gazette, specify in this behalf:

PROVIDED that where a part of any village, town or city falls within a specified area, the whole of such village, town or city shall, notwithstanding that the whole of it is not within one hundred kilometres from any coast or other border of India, be deemed to be included in such specified area;

(d) "**specified date**", in relation to specified goods, means the date on which any notification is issued under section 11-I in relation to those goods in any specified area;

(e) "**specified goods**" means goods of any description specified in the notification issued under section 11-I in relation to a specified area.

#### **11-I. Power of Central Government to specify goods**

If, having regard to the magnitude of the illegal export of goods of any class or description, the Central Government is satisfied that it is expedient in the public interest to take special measures for the purpose of checking the illegal export or facilitating the detection of goods which are likely to be illegally exported, it may, by notification in the Official Gazette, specify goods of such class or description.

#### **11J. Persons possessing specified goods to intimate the place of storage, etc.**

(1) Every person who owns, possesses or controls, on the specified date, any specified goods, the market price of which exceeds fifteen thousand rupees shall, within seven days from that date, deliver to the proper officer an intimation containing the particulars of the place where such goods are kept or stored within the specified area.

(2) Every person who acquires (within the specified area), after the specified date, any specified goods,-

(i) the market price of which, or

(ii) the market price of which together with the market price of any specified goods of the same class or description, if any, owned, possessed or controlled by him on the date of such acquisition, exceeds fifteen thousand rupees shall, before making such acquisition, deliver to the proper officer an intimation containing the particulars of the place where such goods are proposed to be kept or stored after such acquisition:

PROVIDED that a person who has delivered an intimation, whether under sub-section

(1) or sub-section (2), in relation to any specified goods, owned, possessed, controlled or acquired by him, shall not be required to deliver any further intimation so long as the specified goods are kept or stored at the intimated place.

(3) If any person intends to shift any specified goods to which sub-section (1) or sub-section (2) applies, to any place other than the intimated place, he shall, before taking out such goods from

the intimated place, deliver to the proper officer an intimation containing the particulars of the place to which such goods are proposed to be shifted.

(4) No person shall, after the expiry of seven days from the specified date, keep or store any specified goods to which sub-section (1) or sub-section (2) applies, at any place other than the intimated place.

#### **11K. Transport of specified goods to be covered by vouchers**

(1) No specified goods shall be transported from, into or within any specified area or loaded on any animal or conveyance in such area, unless they are accompanied by a transport voucher (in such form and containing such particulars as may be specified by rules made in this behalf) prepared by the person owning, possessing, controlling or selling such goods:

PROVIDED that no transport voucher shall be necessary for the transport, within a village, town or city, of any specified goods the market price of which, on the date of transport, does not exceed one thousand rupees.

(2) Notwithstanding anything contained in sub-section (1), where the Central Government, after considering the nature of any specified goods, the time, mode, route and the market price of the goods intended to be transported, the purpose of the transportation and the vulnerability of the specified area with regard to the illegal export of such goods, is satisfied that it is expedient in the public interest so to do, it may-

(i) by notification in the Official Gazette, specify goods of such class or description and of a market price exceeding such sum as that government may notify; and different sums in relation to the specified goods of the same class or description, or different classes or descriptions, may be notified for the same specified area or for different specified areas, and

(ii) direct that no person shall transport any goods so specified unless the transport voucher in relation to them has been countersigned by the proper officer.

#### **11L. Persons possessing specified goods to maintain accounts**

(1) Every person who, on or after the specified date, owns, possesses or controls, within a specified area, any specified goods of a market price exceeding fifteen thousand rupees, shall maintain (in such form and in such manner as may be specified by rules made in this behalf) a true and complete account of such goods and shall, as often as he acquires or parts with any specified goods, make an entry in the said account in relation to such acquisition or parting with, and shall also state therein the particulars of the person from whom such goods have been acquired or in whose favour such goods have been parted with, as the case may be, and such account shall be kept, along with the goods, at the place of storage of the specified goods to which such accounts relate:

PROVIDED that it shall not be necessary to maintain separately accounts in the form and manner specified by rules made in this behalf in the case of a person who is already maintaining accounts which contain the particulars specified by the said rules.

(2) Every person who owns, possesses or controls any specified goods to which the provisions of sub-section (1) apply, and who uses any such goods for the manufacture of any other goods, shall maintain (in such form, in such manner and containing such particulars as may be specified by rules made in this behalf) a true and complete account of the specified goods so used by him and shall keep such account at the intimated place.

(3) If at any time, on a verification made by a proper officer, it is found that any specified goods owned, possessed or controlled by a person are less in quantity than the stock of such goods as shown, at the time of such verification, in the account referred to in sub-section (1), read with the accounts referred to in sub-section (2), it shall be presumed, unless the contrary is proved, that

such goods, to the extent that they are less than the stock shown in the said accounts, have been illegally exported and that the person owning, possessing or controlling such goods has been concerned with the illegal export thereof.

**11M. Steps to be taken by persons selling or transferring any specified goods**

Except where he receives payment by cheque drawn by the purchaser, every person who sells or otherwise transfers within any specified area, any specified goods, shall obtain, on his copy of the sale or transfer voucher, the signature and full postal address of the person to whom such a sale or transfer is made and shall also take such other reasonable steps as may be specified by rules made in this behalf to satisfy himself as to the identity of the purchaser or the transferee, as the case may be, and if after an inquiry made by a proper officer, it is found that the purchaser or the transferee, as the case may be, is not either readily traceable or is a fictitious person, it shall be presumed, unless the contrary is proved, that such goods have been illegally exported and the person who had sold or otherwise transferred such goods had been concerned in such illegal export:

PROVIDED that nothing in this section shall apply to petty sales of any specified goods if the aggregate market price obtained by such petty sales, made in the course of a day, does not exceed two thousand and five hundred rupees.

Explanation : In this section "petty sale" means a sale at a price which does not exceed one thousand rupees.

## **CHAPTER IV-C POWER TO EXEMPT FROM THE PROVISIONS OF CHAPTERS IV-A AND IV-B**

### **11N. Power to exempt**

If the Central Government is satisfied that it is necessary in the public interest so to do, it may, by notification in the Official Gazette, exempt generally, either absolutely or subject to such conditions as may be specified in the notification, goods of any class or description from all or any of the provisions of Chapter IVA or Chapter IVB.<sup>1</sup>

## **CUSTOMS ACT, 1962**

### **CHAPTER V : LEVY OF, AND EXEMPTION FROM, CUSTOMS DUTIES**

#### **12. Dutiable goods**

(1) Except as otherwise provided in this Act or any other law for the time being in force, duties of customs shall be levied at such rates as may be specified under 11[the Customs Tariff Act, 1975 (51 of 1975),] or any other law for the time being in force, on goods imported into, or exported from, India.

12[(2) The provisions of sub-section (1) shall apply in respect of all goods belonging to government as they apply in respect of goods not belonging to Government.]

#### **13. Duty on pilfered goods**

If any imported goods are pilfered after the unloading thereof and before the proper officer has made an order for clearance for home consumption or deposit in a warehouse, the importer shall not be liable to pay the duty leviable on such goods except where such goods are restored to the importer after pilferage.

#### **14. Valuation of goods for purposes of assessment**

(1) For the purposes of 11[the Customs Tariff Act, 1975 (51 of 1975),] or any other law for the time being in force where- under a duty of customs is chargeable on any goods by reference to their value, the value of such goods shall be deemed to be<sup>13</sup> the price at which such or like

goods are ordinarily sold, or offered for sale, for delivery at the time and place of importation or exportation, as the case may be, in the course of international trade, where the seller and the buyer have no interest in the business of each other and the price is the sole consideration for the sale or offer for sale:

14[PROVIDED that such price shall be calculated with reference to the rate of exchange as in force on the date on which a bill of entry is presented under section 46, or a shipping bill or bill of export, as the case may be, is presented under section 50;]

15[(1A) Subject to the provisions of sub-section (1), the price referred to in that sub-section in respect of imported goods shall be determined in accordance with the rules made in this behalf.]

(2) Notwithstanding anything contained in sub-section (1) 14[or sub-section (1A)], if the Central Government is satisfied that it is necessary or expedient so to do it may, by notification in the Official Gazette, fix tariff values for any class of imported goods or export goods, having regard to the trend of value of such or like goods, and where any such tariff values are fixed, the duty shall be chargeable with reference to such tariff value.

(3) For the purposes of this section-

(a) "rate of exchange" means the rate of exchange-

(i) determined by the Central Government, or

(ii) ascertained in such manner as the Central Government may direct,

for the conversion of Indian currency into foreign currency or foreign currency into Indian currency.

(b) "foreign currency" and "Indian currency" have the meanings respectively assigned to them in the Foreign Exchange Regulation Act, 1973 (46 of 1973)

#### **15. Date for determination of rate of duty and tariff valuation of imported goods**

(1) 16[The rate of duty 17[\*\*\*]] and tariff valuation, if any, applicable to any imported goods, shall be the rate and valuation in force,-

(a) in the case of goods entered for home consumption under section 46, on the date on which a bill of entry in respect of such goods is presented under that section;

(b) in the case of goods cleared from a warehouse under section 68, on the date on which the goods are actually removed from the warehouse;

(c) in the case of any other goods, on the date of payment of duty:

18[PROVIDED that if a bill of entry has been presented before the date of entry inwards of the vessel or the arrival of the aircraft by which the goods are imported, the bill of entry shall be deemed to have been presented on the date of such entry inwards or the arrival, as the case may be.]

(2) The provisions of this section shall not apply to baggage and goods imported by post.

#### **16. Date for determination of rate of duty and tariff valuation of export goods**

19[(1) The rate of duty and tariff valuation, if any, applicable to any export goods, shall be the rate and valuation in force-

(a) in the case of goods entered for export under section 50, on the date on which the proper

officer makes an order permitting clearance and loading of the goods for exportation under section 51;

(b) in the case of any other goods, on the date of payment of duty.]

(2) The provisions of this section shall not apply to baggage and goods exported by post.

### **17. Assessment of duty**

(1) After an importer has entered any imported goods under section 46, or an exporter has entered any export goods under section 50 the imported goods or the export goods, as the case may be, or such part thereof as may be necessary may, without undue delay, be examined and tested by the proper officer.

(2) After such examination and testing, the duty, if any, leviable on such goods shall, save as otherwise provided in section 85, be assessed.

(3) For the purpose of assessing duty under sub-section (2), the proper officer may require the importer, exporter or any other person to produce any contract, broker's note, policy insurance, catalogue or other document whereby the duty leviable on the imported goods or export goods, as the case may be, can be ascertained, and to furnish any information required for such ascertainment which it is in his power to produce or furnish, and thereupon the importer, exporter or such other person shall produce such document and furnish such information.

(4) Notwithstanding anything in this section, imported goods or export goods may, prior to the examination or testing thereof, be permitted by the proper officer to be assessed to duty on the basis of the statements made in the entry relating thereto and the documents produced and the information furnished under sub-section (3); but if it is found subsequently on examination or testing of the goods or otherwise that any statement in such entry or document or any information so furnished is not true in respect of any matter relevant to the assessment, the goods may, without prejudice to any other action which may be taken under this Act, be re-assessed to duty.

### **18. Provisional assessment of duty**

(1) Notwithstanding anything contained in this Act but without prejudice to the provisions contained in section 46-

(a) where the proper officer is satisfied that an importer or exporter is unable to produce any document or furnish any information necessary for the assessment of duty on the imported goods or the export goods, as the case may be; or

(b) where the proper officer deems it necessary to subject any imported goods or export goods to any chemical or other test for the purpose of assessment of duty thereon ; or

(c) where the importer or the exporter has produced all the necessary documents and furnished full information for the assessment of duty but the proper officer deems it necessary to make further enquiry for assessing the duty,

the proper officer may direct that the duty leviable on such goods may, pending the production of such documents or furnishing of such information or completion of such test or enquiry, be assessed provisionally if the importer or the exporter, as the case may be, furnishes such security as the proper officer deems fit for the payment of the deficiency, if any, between the duty finally assessed and the duty provisionally assessed.

(2) When the duty leviable on such goods is assessed finally in accordance with the provisions of this Act, then-

(a) in the case of goods cleared for home consumption or exportation, the amount paid shall be

adjusted against the duty finally assessed and if the amount so paid falls short of, or is in excess of 20[the duty finally assessed,] the importer or the exporter of the goods shall pay the deficiency or be entitled to a refund, as the case may be;

(b) in the case of warehoused goods, the proper officer may, where the duty finally assessed is in excess of the duty provisionally assessed, require the importer to execute a bond, binding himself in a sum equal to twice the amount of the excess duty.

#### **19. Determination of duty where goods consist of articles liable to different rates of duty**

Except as otherwise provided in any law for the time being in force, where goods consist of a set of articles, duty shall be calculated as follows:-

(a) articles to duty with reference to quantity shall be chargeable to that duty;

(b) articles liable to duty with reference to value shall, if they are liable to duty at the same rate, be chargeable to duty at that rate, and if they are liable to duty at different rates, be chargeable to duty at the highest of such rates;

(c) articles not liable to duty shall be chargeable to duty at the rate at which articles liable to duty with reference to value are liable under clause (b):

PROVIDED that-

(a) accessories of, and spare parts or maintenance and repairing implements for any article which satisfies the conditions specified in the rules made in this behalf shall be chargeable at the same rate of duty as that article;

(b) if the importer produces evidence to the satisfaction of the proper officer regarding the value of any of the articles liable to different rates of duty, such article shall be chargeable to duty separately at the rate applicable to it.

#### **21[20.Re-importation of goods produced or manufactured in India**

(1) If goods are imported into India after exportation therefrom, such goods shall be liable to duty and be subject to all the conditions and restrictions, if any, to which goods of the like kind and value are liable or subject, on the importation thereof.]

#### **21. Goods derelict, wreck, etc.**

All goods, derelict, jetsam, flotsam, and wreck brought or coming into India shall be dealt with as if they were imported into India, unless it be shown to the satisfaction of the proper officer that they are entitled to be admitted duty-free under this Act.

22[\* \* \*]

#### **22. Abatement of duty on damaged or deteriorated goods**

(1) Where it is shown to the satisfaction of the 23[Assistant Commissioner of Customs or Deputy Commissioner of Customs]-

(a) that any imported goods had been damaged or had deteriorated at any time before or during the unloading of the goods in India; or

(b) that any imported goods, other than warehoused goods, had been damaged at any time after the unloading thereof in India but before their examination under section 17, on account of any accident not due to any wilful act, negligence or default of the importer, his employee or agent; or

(c) that any warehoused goods had been damaged at any time before clearance for home consumption on account of any accident not due to any wilful act, negligence or default of the

owner, his employee or agent,

such goods shall be chargeable to duty in accordance with the provisions of sub-section (2).

(2) The duty to be charged on the goods referred to in sub-section (1) shall bear the same proportion to the duty chargeable on the goods before the damage or deterioration which the value of the damaged or deteriorated goods bears to the value of the goods before the damage or deterioration.

(3) For the purposes of this section, the value of damaged or deteriorated goods may be ascertained by either of the following methods at the option of the owner:-

(a) the value of such goods may be ascertained by the proper officer, or

(b) such goods may be sold by the proper officer by public auction or by tender, or with the consent of the owner in any other manner, and the gross sale proceeds shall be deemed to be the value of such goods.

### **23. Remission of duty on lost, destroyed or abandoned goods**

(1) 24[Without prejudice to the provisions of section 13, Where it is shown] to the satisfaction of the 23[Assistant Commissioner of Customs or Deputy Commissioner of Customs] that any imported goods have been lost 6[(otherwise than as a result of pilferage)] or destroyed, at any time before clearance for home consumption, the

23[Assistant Commissioner of Custom or Deputy Commissioner of Customs] shall remit the duty on such goods.

21[(2) The owner of any imported goods may at any time before an order for clearance of the goods for home consumption under section 47 or an order for permitting the deposit of goods in a warehouse under section 60 has been made, relinquish his title to the goods and thereupon he shall not be liable to pay the duty thereon.]

### **24. Power to make rules for denaturing or mutilation of goods**

The Central Government may make rules for permitting at the request of the owner the denaturing or mutilation of imported goods which are ordinarily used for more than one purpose so as to render them unfit for one or more of such purposes; and where any goods are so denatured or mutilated they shall be chargeable to duty at such rate as would be applicable if the goods had been imported in the denatured or mutilated form.

### **25. Power to grant exemption from duty**

(1) If the Central Government is satisfied that it is necessary in the public interest so to do, it may, by notification in the Official Gazette, exempt generally either absolutely or subject to such conditions (to be fulfilled before or after clearance) as may be specified in the notification goods of any specified description from the whole or any part of duty of customs leviable thereon.

25[(2) If the Central Government is satisfied that it is necessary in the public interest so to do, it may, by special order in each case, exempt from payment of duty, for reasons to be stated in such order, any goods, of strategic or secret nature, or for charitable purpose, on which duty is leviable.]

6[(3) An exemption under sub-section (1) or sub-section (2) in respect of any goods from any part of the duty of customs leviable thereon (the duty of customs, leviable thereon being hereinafter referred to as the statutory duty) may be granted by providing for the levy of a duty on such goods at a rate expressed in a form or method different from the form or method in which the statutory duty is leviable and any exemption granted in relation to any goods in the manner provided in this sub-section shall have effect subject to the condition that the duty of customs chargeable on such

goods shall in no case exceed the statutory duty.

Explanation: "Form or method", in relation to a rate of duty of customs, means the basis, namely, valuation, weight, number, length, area, volume or other measure with reference to which the duty is leviable.]

**26[(4) Every notification issued under sub-section (1) shall-**

(a) unless otherwise provided, come into force on the date of its issue by the Central Government for publication in the Official Gazette;

(b) also be published and offered for sale on the date of its issue by the Directorate of Publicity and Public Relations of the Board, New Delhi.

(5) Notwithstanding anything contained in sub-section (4), where a notification comes into force on a date later than the date of its issue, the same shall be published and offered for sale by the said Directorate of Publicity and Public Relations on a date on or before the date on which the said notification comes into force.]

**26. Refund of export duty in certain cases**

Where on the exportation of any goods any duty has been paid, such duty shall be refunded to the person by whom or on whose behalf it was paid, if-

(a) the goods are returned to such person otherwise than by way of re-sale;

(b) the goods are re-imported within one year from the date of exportation; and

(c) an application for refund of such duty is made before the expiry of six months from the date on which the proper officer makes an order for the clearance of the goods.

**27[27. Claim for refund of duty**

(1) Any person claiming refund of any 28[duty and interest, if any, paid on such duty]-

(a) paid by him in pursuance of an order of assessment; or

(b) borne by him,

may make an application for refund of such 28[duty and interest, if any, paid on such duty] to the 23[Assistant Commissioner of Customs or Deputy Commissioner of Customs]-

(a) in the case of any import made by any individual for his personal use or by government or by any educational, research or charitable institution or hospital, before the expiry of one year;

(b) in any other case, before the expiry of six months.

from the date of payment of 28[duty and interest, if any, paid on such duty], in such form and manner as may be specified in the regulations made in this behalf and the application shall be accompanied by such documentary or other evidence (including the documents referred to in section 28C) as the applicant may furnish to establish that the amount of 28[duty and interest, if any, paid on such duty] in relation to which such refund is claimed was collected from, or paid by, him and the incidence of such 28[duty and interest, if any, paid on such duty] had not been passed on by him to any other person:

PROVIDED that where an application for refund has been made before the commencement of the Central Excise and Customs Laws (Amendment) Act, 1991, such applications shall be deemed to have been made under this sub-section and the same shall be dealt with in

accordance with the provisions of sub-section (2).

PROVIDED FURTHER that the limitation of one year or six months, as the case may be, shall not apply where any 28[duty and interest, if any, paid on such duty] has been paid under protest.

29[PROVIDED ALSO that in the case of goods which are exempt from payment of duty by a special order issued under sub-section (2) of section 25, the limitation of one year or six months, as the case may be, shall be computed from the date of issue of such order.]

Explanation I: For the purposes of this sub-section, the date of payment of 28[duty and interest, if any, paid on such duty], in relation to a person, other than the importer, shall be construed as "the date of purchase of goods" by such person.

**26[Explanation II : Where any duty is paid provisionally under section 18, the limitation of one year or six months, as the case may be, shall be computed from the date of adjustment of duty after the final assessment thereof.]**

(2) If, on receipt of any such application, the 23[Assistant Commissioner of Customs or Deputy Commissioner of Customs] is satisfied that the whole or any part of the 29[duty and interest, if any, paid on such duty] paid by the applicant is refundable, he may make an order accordingly and the amount so determined shall be credited to the Fund:

PROVIDED that the amount of 28[duty and interest, if any, paid on such duty] as determined by the 23[Assistant Commissioner of Customs or Deputy Commissioner of Customs] under the foregoing provisions of this sub-section shall, instead of being credited to the Fund, be paid to the applicant, if such amount is relatable to-

(a) the 28[duty and interest, if any, paid on such duty] paid by the importer, if he had not passed on the incidence of such duty and interest, if any, paid on such duty to any other person;

(b) the 28[duty and interest, if any, paid on such duty] on imports made by an individual for his personal use;

(c) the 28[duty and interest, if any, paid on such duty] borne by the buyer, if he had not passed on the incidence of such 29[duty and interest, if any, paid on such duty] to any other person;

(d) the export duty as specified in section 26;

(e) drawback of duty payable under sections 74 and 75;

(f) the 28[duty and interest, if any, paid on such duty] borne by any other such class of applicants as the Central Government may, by notification in the Official Gazette specify:

PROVIDED FURTHER that no notification under clause (f) of the first proviso shall be issued unless in the opinion of the Central Government the incidence of 28[duty and interest, if any, paid on such duty] has not been passed on by the persons concerned to any other person.

(3) Notwithstanding anything to the contrary contained in any judgement, decree, order or direction of the Appellate Tribunal or any court or in any other provision of this Act or the regulations made thereunder or any other law for the time being in force, no refund shall be made except as provided in sub-section (2).

(4) Every notification under clause (f) of the first proviso to sub-section (2) shall be laid before each House of Parliament, if it is sitting, as soon as may be after the issue of the notification, and, if it is not sitting, within seven days of its re-assembly, and the Central Government shall seek the approval of Parliament to the notification by a resolution moved within a period of fifteen days

beginning with the day on which the notification is so laid before the House of the People and if Parliament makes any modification in the notification, or directs that the notification should cease to have effect, the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be, but without prejudice to the validity of anything previously done thereunder.

(5) For the removal of doubts, it is hereby declared that any notification issued under clause (f) of the first proviso to sub-section (2), including any such notification approved or modified under sub-section (4), may be rescinded by the Central Government at any time by notification in the Official Gazette.

## **CHAPTER V : LEVY OF, AND EXEMPTION FROM, CUSTOMS DUTIES**

### **30[27A. Interest on delayed refunds**

If any duty ordered to be refunded under sub-section (2) of section 27 to an applicant is not refunded with three months from the date of receipt of application under sub-section (1) of that section, there shall be paid to that applicant interest at such rate, not below ten per cent and not exceeding thirty per cent per annum as is for the time being fixed by the Board, on such duty from the date immediately after the expiry of three months from the date of receipt of such application till the date of refund of such duty:

PROVIDED that where any duty, ordered to be refunded under sub-section (2) of section 27 in respect of an application under sub-section (1) of that section made before the date on which the Finance Bill, 1995 receives the assent of the President, is not refunded within three months from such date, there shall be paid to the applicant interest under this section from the date immediately after three months from such date, till the date of refund of such duty.

Explanation: Where any order of refund is made by the Commissioner (Appeals), Appellate Tribunal or any court against an order of the 23[Assistant Commissioner of Customs or Deputy Commissioner of Customs] under sub-section (2) of section 27, the order passed by the Commissioner (Appeals), Appellate Tribunal or, as the case may be, by the court shall be deemed to be an order passed under that sub-section for the purposes of this section.

### **5[28. Notice for payment of duties, interest, etc.**

(1) When any duty has not been levied or has been short-levied or erroneously refunded, or when any interest payable has not been paid, part paid or erroneously refunded, the proper officer may,-

(a) in the case of any import made by any individual for his personal use or by government or by any educational, research or charitable institution or hospital, within one year;

(b) in any other case, within six months,

from the relevant date, serve notice on the person chargeable with the duty or interest which has not been levied or charged or which has been short-levied or part paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice:

PROVIDED that where any duty has been levied or has been short-levied or the interest has not been charged or has been part paid or the duty or interest has been erroneously refunded by reason of collusion or any willful mis-statement or suppression of facts by the importer or the exporter or the agent or employee of the importer or exporter, the provisions of this sub-section shall have effect as if for the words "one year" and "six months", the words "five years" were substituted.

Explanation : Where the service of the notice is stayed by an order of a court, the period of such stay shall be excluded in computing the aforesaid period of one year or six months or five years, as the case may be.

(2) The proper officer, after considering the representation, if any, made by the person on whom notice is served under sub-section (1), shall determine the amount of duty or interest due from such person (not being in excess of the amount specified in the notice) and thereupon such person shall pay the amount so determined.

(3) For the purposes of sub-section (1), the expression "relevant date" means,-

(a) in a case where duty is not levied, or interest is not charged, the date on which the proper officer makes an order for the clearance of the goods;

(b) in a case where duty is provisionally assessed under section 18, the date of adjustment of duty after the final assessment thereof;

(c) in a case where duty or interest has been erroneously refunded, the date of refund;

(d) in any other case, the date of payment of duty or interest.]

**31[28A. Power not to recover duties not levied or short-levied as a result of general practice**

**32[(1) Notwithstanding anything contained in this Act, if the Central Government is satisfied-**

(a) that a practice was, or is, generally prevalent regarding levy of duty (including non-levy thereof) on any goods imported into, or exported from India; and

(b) that such goods were, or are, liable-

(i) to duty, in cases where according to the said practice the duty was not, or is not being, levied, or

(ii) to a higher amount of duty than what was, or is being, levied, according to the said practice, then the Central Government may, by notification in the Official Gazette, direct that the whole of the duty payable on such goods, or, as the case may be, the duty in excess of that payable on such goods, but for the said practice, shall not be required to be paid in respect of the goods on which the duty was not, or is not being, levied, or was, or is being, short-levied, in accordance with the said practice.]

33[(2) Where any notification under sub-section (1) in respect of any goods has been issued, the whole of the duty paid on such goods, or, as the case may be, the duty paid in excess of that payable on such goods, which would not have been paid if the said notification had been in force, shall be dealt with in accordance with the provisions of sub-section (2) of section 27:

PROVIDED that the person claiming the refund of such duty, or, as the case may be, excess duty, makes an application in this behalf to the 23[Assistant Commissioner of Customs or Deputy Commissioner of Custom], in the form referred to in sub-section (1) of section 27, before the expiry of six months from the date of issue of the said notification.]

**30[28AA. Interest on delayed payment of duty**

34[Subject to the provisions contained in section 28AB, where a person,] chargeable with the duty determined under sub-section (2) of section 28, fails to pay such duty within three month from the date of such determination, he shall pay, in addition to the duty, interest at such rate not below ten per cent and not exceeding thirty per cent per annum, as is for the time being fixed by

the Board, on such duty from the date immediately after the expiry of the said period of three months till the date of payment of such duty:

PROVIDED that where a person chargeable with duty determined under sub-section (2) of section 28 before the date on which the Finance Bill, 1995 received the assent of the President, fails to pay such duty within three months from such date, then, such person shall be liable to pay interest under this section from the date immediately after three months from such date, till the date of payment of such duty.

Explanation 1 : Where the duty determined to be payable is reduced by the Commissioner (Appeals), Appellate Tribunal or, as the case may be, the court, the date of such determination shall be the date on which an amount of duty is first determined to be payable.

Explanation 2 : Where the duty determined to be payable is increased or further increased by the Commissioner (Appeals), Appellate Tribunal or, as the case may be, the court, the date of such determination shall be,-

(a) for the amount of duty first determined to be payable, the date on which the duty is so determined;

(b) for the amount of increased duty, the date of order by which the increased amount of duty is first determined to be payable;

(c) for the amount of further increase of duty, the date of order on which the duty is so further increased.]

#### **29[28AB. Interest on delayed payment of duty in special cases**

(1) Where any duty has not been levied or has been short levied or erroneously refunded by reason of collusion or any wilful mis-statement or suppression of facts, the person who is liable to pay the duty as determined under sub-section (2) of section 28, shall, in addition to the duty, be liable to pay interest at such rate not below ten per cent and not exceeding thirty per cent per annum, as is for the time being fixed by the Board, from the first day of the month succeeding the month in which the duty ought to have been paid under this Act, but for the provisions contained in sub-section (2) of section 28, till the date of payment of such duty.

(2) For the removal of doubts, it is hereby declared that the provisions of sub-section (1) shall not apply to cases where the duty became payable before the date on which the Finance (No. 2) Act, 1996 receives the assent of President.

Explanation 1 : Where the duty determined to be payable is reduced by the Commissioner (Appeals), the Appellate Tribunal or, as the case may be, the court, the interest shall be payable on such reduced amount of duty.

Explanation 2 : Where the duty determined to be payable is increased or further increased by the Commissioner (Appeals), the Appellate Tribunal or, as the case may be, the court, the interest shall be payable on such increased or further increased amount of duty.]

#### **7[28B. Duties collected from the buyer to be deposited with the Central Government**

(1) Notwithstanding anything to the contrary contained in any order or direction of the Appellate Tribunal or any court or in any other provision of this Act or the regulations made thereunder, every person who has collected any amount from the buyer of any goods in any manner as representing duty of customs, shall forthwith pay the amount so collected to the credit of the Central Government.

(2) The amount paid to the credit of the Central Government under sub-section (1) shall be adjusted against the duty payable by the person on finalisation of assessment and where any

surplus is left after such adjustment, the amount of such surplus shall either be credited to the Fund or, as the case may be, refunded to the person who has borne the incidence of such amount, in accordance with the provisions of section 27 and the application under that section in such cases shall be made before the expiry of six months from the date of the public notice to be issued by the 23[Assistant Commissioner of Customs or Deputy Commissioner of Customs].

#### **<sup>7</sup>[CHAPTER V-A : INDICATING AMOUNT OF DUTY IN PRICE OF GOODS, ETC., FOR PURPOSE OF RE-FUND**

##### **28C. Price of goods to indicate the amount of duty paid thereon**

Notwithstanding anything contained in this Act or any other law for the time being in force, every person who is liable to pay duty on any goods shall, at the time of clearance of the goods, prominently indicate in all the documents relating to assessment, sales invoice, and other like documents, the amount of such duty which will form part of the price at which such goods are to be sold.

##### **28D. Presumption that incidence of duty has been passed on to the buyer**

Every person who has paid the duty on any goods under this Act shall, unless the contrary is proved by him, be deemed to have passed on the full incidence of such duty to the buyer of such goods.]

##### **28E. Definitions**

In this Chapter, unless the context otherwise requires,-

(a) "**activity**" means import or export;

(b) "**advance ruling**" means the determination, by the authority, of a question of law or fact specified in the application regarding the liability to pay duty in relation to an activity which is proposed to be undertaken, by the applicant;

(c) "**applicant**" means a non-resident setting up a joint venture in India in collaboration with a non-resident or resident, or a resident setting up a joint venture in India in collaboration with a non-resident, making application;

(d) "**application**" means an application made to the authority under sub-section (1) of section 28H;

(e) "**authority**" means the authority for advance ruling constituted under section 28F;

(f) "**chairperson**" means the Chairperson of the authority;

(g) "**member**" means a member of the authority and includes the chairperson; and

(h) "**non-resident**" shall have the meaning assigned to it in clause (30) of section 2 of the Income Tax Act, 1961 (43 of 1961).

##### **28F. Authority for advance rulings**

(1) The Central Government shall, by notification in the Official Gazette, constitute an authority for giving advance rulings, to be called as "the authority for advance rulings".

(2) The authority shall consist of the following members appointed by the Central Government, namely:-

(a) a Chairperson, who is a retired Judge of the Supreme Court;

(b) an officer of the Indian Customs and Central Excise Service who is qualified to be a member of the Board;

(c) an officer of the Indian legal service who is, or is qualified, to be, an Additional Secretary to the Government of India.

(3) The salaries and allowances payable to, and the terms and conditions of service of, the members shall be such as the Central Government may by rules determine.

(4) The Central Government shall provide the authority with such officers and staff as may be necessary for the efficient exercise of the powers of the authority under this Act.

(5) The office of the authority shall be located in Delhi.

**28G. Vacancies, etc. not to invalidate proceedings**

No proceeding before, or pronouncement of advance ruling by, the authority under this Chapter shall be questioned or shall be invalid on the ground merely of the existence of any vacancy or defect in the constitution of the authority.

**28H. Application for advance ruling**

(1) An applicant desirous of obtaining an advance ruling under this Chapter may make an application in such form and in such manner as may be prescribed, stating the question on which the advance ruling is sought.

(2) The question on which the advance ruling is sought shall be in respect of,-

(a) classification of goods under the Customs Tariff Act, 1975;

(b) applicability of a notification issued under sub-section (1) of section 25, having a bearing on the rate of duty;

(c) the principles to be adopted for the purposes of determination of value of the goods under the provisions of this Act.

(3) The application shall be made in quadruplicate and be accompanied by a fee of two thousand five hundred rupees.

(4) An applicant may withdraw his application within thirty days from the date of the application.

**28-I. Procedure on receipt of application**

(1) On receipt of an application, the authority shall cause a copy thereof to be forwarded to the Commissioner of Customs and, if necessary, call upon him to furnish the relevant records:

PROVIDED that where any records have been called for by the authority in any case, such records shall, as soon as possible, be returned to the Commissioner of Customs.

(2) The authority may, after examining the application and the records called for, by order, either allow or reject the application:

PROVIDED that the authority shall not allow the application except in the case of a resident applicant where the question raised in the application is,-

(a) already pending in the applicant's case before any officer of customs, the Appellate Tribunal or any court;

(b) the same as in a matter already decided by the Appellate Tribunal or any court:

PROVIDED FURTHER that no application shall be rejected under this sub-section unless an

opportunity has been given to the applicant of being heard:

PROVIDED ALSO that where the application is rejected, reasons for such rejection shall be given in the order.

(3) A copy of every order made under sub-section (2) shall be sent to the applicant and to the Commissioner of Customs.

(4) Where an application is allowed under sub-section (2), the authority shall, after examining such further material as may be placed before it by the applicant or obtained by the authority, pronounce its advance ruling on the question specified in the application.

(5) On a request received from the applicant, the authority shall, before pronouncing its advance ruling, provide an opportunity to the applicant of being heard, either in person or through a duly authorised representative.

Explanation: For the purposes of this sub-section, "authorised representative" shall have the meaning assigned to it in sub-section (2) of section 146A.

(6) The authority shall pronounce its advance ruling in writing within ninety days of the receipt of application.

(7) A copy of the advance ruling pronounced by the authority, duly signed by the members and certified in the prescribed manner shall be sent to the applicant and to the Commissioner of Customs, as soon as may be, after such pronouncement.

#### **28J. Applicability of advance ruling**

(1) The advance ruling pronounced by the authority under section 28-I shall be binding only,-

(a) on the applicant who had sought it;

(b) in respect of any matter referred to in sub-section (2) of section 28H;

(c) on the Commissioner of Customs, and the customs authorities subordinate to him, in respect of the applicant.

(2) The advance ruling referred to in sub-section (1) shall be binding as aforesaid unless there is a change in law or facts on the basis of which the advance ruling has been pronounced.

#### **28K. Advance ruling to be void in certain circumstances**

(1) Where the authority finds, on a representation made to it by the Commissioner of Customs or otherwise, that an advance ruling pronounced by it under sub-section (6) of section 28-I has been obtained by the applicant by fraud or misrepresentation of facts, it may, by order, declare such ruling to be void ab initio and thereupon all the provisions of this Act shall apply (after excluding the period beginning with the date of such advance ruling and ending with the date of order under this sub-section) to the applicant as if such advance ruling had never been made.

(2) A copy of the order made under sub-section (1) shall be sent to the applicant and the Commissioner of Customs.

#### **28L. Powers of authority**

(1) The authority shall, for the purpose of exercising its powers regarding discovery and inspection, enforcing the attendance of any person and examining him on oath, issuing commissions and compelling production of books of account and other records, have all the powers of a civil court under the Code of Civil Procedure, 1908 (5 of 1908).

(2) The authority shall be deemed to be a civil court for the purposes of section 195, but not for the purposes of Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974), and every proceeding before the authority shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196, of the Indian Penal Code (45 of 1860).

**28M. Procedure of authority**

The authority shall, subject to the provisions of this Chapter, have power to regulate its own procedure in all matters arising out of the exercise of its powers under this Act.]

**CHAPTER VI : PROVISIONS RELATING TO CONVEYANCES CARRYING IMPORTED OR EXPORTED GOODS**

**29. Arrival of vessels and aircraft in India**

(1) The person-in-charge of a vessel or an aircraft entering India from any place outside India shall not cause or permit the vessel or aircraft to call or land-

(a) for the first time after arrival in India; or

(b) at any time while it is carrying passengers or cargo brought in that vessel or aircraft;

at any place other than a customs port or a customs airport, as the case may be.

(2) The provisions of sub-section (1) shall not apply in relation to any vessel or aircraft which is compelled by accident, stress of weather or other unavoidable cause to call or land at a place other than a customs port or customs airport but the person in- charge of any such vessel or aircraft-

(a) shall immediately report the arrival of the vessel or the landing of the aircraft to the nearest customs officer or the officer-in-charge of a police station and shall on demand produce to him the log book belonging to the vessel or the aircraft;

(b) shall not without the consent of any such officer permit any goods carried in the vessel or the aircraft to be unloaded from, or any of the crew or passengers to depart from the vicinity of, the vessel or the aircraft; and

(c) shall comply with any directions given by any such officer with respect to any such goods,

and no passenger or member of the crew shall, without the consent of any such officer, leave the immediate vicinity of the vessel or the aircraft:

PROVIDED that nothing in this section shall prohibit the departure of any crew or passengers from the vicinity of, or the removal of goods from, the vessel or aircraft where the departure or removal is necessary for reasons of health, safety or the preservation of life or property.

**30. Delivery of import manifest or import report**

25[(1) The person in charge of a vessel or an aircraft carrying imported goods shall, deliver to the proper officer, an import manifest, and in the case of a vehicle, an import report, within twenty four hours after arrival thereof at a customs station in the case of a vessel and twelve hours after arrival in the case of an aircraft or a vehicle, in the prescribed form:

PROVIDED that,-

(a) in the case of a vessel or an aircraft, any such manifest may be delivered to the proper officer before the arrival of the vessel or aircraft;

(b) if the proper officer is satisfied that there was sufficient cause for not delivering the import manifest or import report or any part thereof within the time specified in this sub-section, he may

accept it at any time thereafter.]

(2) The person delivering the import manifest or import report shall at the foot thereof make and subscribe to a declaration as to the truth of its contents.

(3) If the proper officer is satisfied that the import manifest or import report is in any way incorrect or incomplete, and that there was no fraudulent intention, he may permit it to be amended or supplemented.

**31. Imported goods not to be unloaded from vessel until entry inwards granted**

(1) The master of a vessel shall not permit the unloading of any imported goods until an order has been given by the proper officer granting entry inwards to such vessel.

(2) No order under sub-section (1) shall be given until an import manifest has been delivered or the proper officer is satisfied that there was sufficient cause for not delivering it.

(3) Nothing in this section shall apply to the unloading of baggage accompanying a passenger or a member of the crew, mail bags, animals, perishable goods and hazardous goods.

**32. Imported goods not to be unloaded unless mentioned in import manifest or import report**

No imported goods required to be mentioned under the regulations in an import manifest or import report shall, except with the permission of the proper officer, be unloaded at any customs station unless they are specified in such manifest or report for being unloaded at that customs station.

**33. Unloading and loading of goods at approved places only**

Except with the permission of the proper officer, no imported goods shall be unloaded, and no export goods shall be loaded, at any place other than a place approved under clause (a) of section 8 for the unloading or loading of such goods.

**34. Goods not to be unloaded or loaded except under supervision of customs officer**

Imported goods shall not be unloaded from, and export goods shall not be loaded on, any conveyance except under the supervision of the proper officer:

PROVIDED that the Board may, by notification in the Official Gazette, give general permission and the proper officer may in any particular case give special permission, for any goods or class of goods to be unloaded or loaded without the supervision of the proper officer.

**35. Restrictions on goods being water-borne**

No imported goods shall be water-borne for being landed from any vessel, and no export goods which are not accompanied by a shipping bill, shall be water-borne for being shipped, unless the goods are accompanied by a boat-note in the prescribed form:

PROVIDED that the Board may, by notification in the Official Gazette, give general permission, and the proper officer may in any particular case give special permission, for any goods or any class of goods to be water-borne without being accompanied by a boat-note.

**36. Restrictions on unloading and loading of goods on holidays, etc.**

No imported goods shall be unloaded from, and no export goods shall be loaded on, any conveyance on any Sunday or on any holiday observed by the Customs Department or on any other day after the working hours, except after giving the prescribed notice and on payment of the prescribed fees, if any:

PROVIDED that no fees shall be levied for the unloading and loading of baggage accompanying a passenger or a member of the crew, and mail bags.

**37. Power to board conveyances**

The proper officer may, at any time, board any conveyance carrying imported goods or export goods and may remain on such conveyance for such period as he considers necessary.

**38. Power to require production of documents and ask questions**

For the purposes of carrying out the provisions of this Act, the proper officer may require the person-in-charge of any conveyance or animal carrying imported goods or export goods to produce any document and to answer any questions and thereupon such person shall produce such documents and answer such questions.

**39. Export goods not to be loaded on vessel until entry-outwards granted**

The master of a vessel shall not permit the loading of any export goods, other than baggage and mail bags, until an order has been given by the proper officer granting entry-outwards to such vessel.

**40. Export goods not be loaded unless duly passed by proper officer**

The person-in-charge of a conveyance shall not permit the loading at a customs station-

(a) of export goods, other than baggage and mail bags, unless a shipping bill or bill of export or a bill of transshipment, as the case may be, duly passed by the proper officer, has been handed over to him by the exporter;

(b) of baggage and mail bags, unless their export has been duly permitted by the proper officer.

**41. Delivery of export manifest or export report**

(1) The person-in-charge of a conveyance carrying export goods shall, before departure of the conveyance from a customs station, deliver to the proper officer in the case of a vessel or aircraft, an export manifest, and in the case of a vehicle, an export report, in the prescribed form:

PROVIDED that if the agent of the person-in-charge of the conveyance furnishes such security as the proper officer deems sufficient for duly delivering within seven days from the date of departure of the conveyance the export manifest or the export report, as the case may be, the proper officer may (subject to such rules as the Central Government may make in this behalf) accept such manifest or report within the aforesaid period.

(2) The person delivering the export manifest or export report shall at the foot thereof make and subscribe to a declaration as to the truth of its contents.

(3) If the proper officer is satisfied that the export manifest or export report is in any way incorrect or incomplete and that there was no fraudulent intention, he may permit such manifest or report to be amended or supplemented.

**42. No conveyance to leave without written order**

(1) The person-in-charge of a conveyance which has brought any imported goods or has loaded any export goods at a customs station shall not cause or permit the conveyance to depart from that customs station until a written order to that effect has been given by the proper officer.

(2) No such order shall be given until-

(a) the person-in-charge of the conveyance has answered the questions put to him under section 38;

(b) the provisions of section 41 have been complied with;

(c) the shipping bills or bills of export, the bills of transshipment, if any, and such other documents,

as the proper officer may require have been delivered to him;

(d) all duties leviable on any stores consumed in such conveyance, and all charges and penalties due in respect of such conveyance or from the person-in-charge thereof have been paid or the payment secured by such guarantee or deposit of such amount as the proper officer may direct;

(e) the person-in-charge of the conveyance has satisfied the proper officer that no penalty is leviable on him under section 116 or the payment of any penalty that may be levied upon him under that section has been secured by such guarantee or deposit of such amount as the proper officer may direct;

(f) in any case where any export goods have been loaded without payment of export duty or in contravention of any provision of this Act or any other law for the time being in force relating to export of goods,-

(i) such goods have been unloaded, or

(ii) where the 23[Assistant Commissioner of Customs or Deputy Commissioner of Customs] is satisfied that it is not practicable to unload such goods, the person-in-charge of the conveyance has given an undertaking, secured by such guarantee or deposit of such amount as the proper officer may direct, for bringing back the goods to India

#### **43. Exemption of certain classes of conveyances from certain provisions of this Chapter**

(1) The provisions of sections 30, 41 and 42 shall not apply to a vehicle which carries no goods other than the luggage of its occupants.

(2) The Central Government may, by notification in the Official Gazette, exempt the following classes of conveyances from all or any of the provisions of this Chapter-

(a) conveyances belonging to the government or any foreign government;

(b) vessels and aircraft which temporarily enter India by reason of any emergency.

### **CHAPTER VII : CLEARANCE OF IMPORTED GOODS AND EXPORT GOODS**

#### **44. Chapter not to apply to baggage and postal articles**

The provisions of this Chapter shall not apply to (a) baggage, and (b) goods imported or to be exported by post.

#### **CLEARANCE OF IMPORTED GOODS**

#### **45. Restrictions on custody and removal of imported goods**

(1) Save as otherwise provided in any law for the time being in force, all imported goods, unloaded in a customs area shall remain in the custody of such person as may be approved by the 5[Commissioner of Customs] until they are cleared for home consumption or are warehoused or are transhipped in accordance with the provisions of Chapter VIII.

(2) The person having custody of any imported goods in a customs area, whether under the provisions of sub-section (1) or under any law for the time being in force,-

(a) shall keep a record of such goods and send a copy thereof to the proper officer;

(b) shall not permit such goods to be removed from the customs area or otherwise dealt with, except under and in accordance with the permission in writing of the proper officer.

30[(3) Notwithstanding anything contained in any law for the time being in force, if any imported goods are pilfered after unloading thereof in a customs area while in the custody of a person referred to in sub-section (1), that person shall be liable to pay duty on such goods at the rate prevailing on the date of delivery of an import manifest or, as the case may be, an import report to the proper officer under section 30 for the arrival of convenience in which the said goods were carried.]

#### **46. Entry of goods on importation**

(1) The importer of any goods, other than goods intended for transit or transshipment, shall make entry thereof by presenting to the proper officer a bill of entry for home consumption or warehousing in the prescribed form:

PROVIDED that if the importer makes and subscribes to a declaration before the proper officer to the effect that he is unable for want of full information to furnish all the particulars of the goods required under this sub-section, the proper officer may, pending the production of such information, permit him, previous to the entry thereof (a) to examine the goods in the presence of an officer of customs, or (b) to deposit the goods in a public warehouse appointed under section 57 without warehousing the same.

(2) Save as otherwise permitted by the proper officer, a bill of entry shall include all the goods mentioned in the bill of lading or other receipt given by the carrier to the consignor.

(3) A bill of entry under sub-section (1) may be presented at any time after the delivery of the import manifest or import report, as the case may be:

PROVIDED that the 5[Commissioner of Customs] may in any special circumstance permit a bill of entry to be presented before the delivery of 8[such report]:

35[PROVIDED FURTHER that a bill of entry may be presented even before the delivery of such manifest if the vessel or the aircraft by which the goods have been shipped for importation into India is expected to arrive within thirty days from the date of such presentation.]

(4) The importer while presenting a bill of entry shall at the foot thereof make and subscribe to a declaration as to the truth of the contents of such bill of entry and shall, in support of such declaration, produce to the proper officer the invoice, if any, relating to the imported goods.

(5) If the proper officer is satisfied that the interests of revenue are not prejudicially affected and that there was no fraudulent intention, he may permit substitution of a bill of entry for home consumption for a bill of entry for warehousing or vice versa.

#### **47. Clearance of goods for home consumption**

36[(1)] Where the proper officer is satisfied that any goods entered for home consumption are not prohibited goods and the importer has paid the import duty, if any, assessed thereon and any charges payable under this Act in respect of the same, the proper officer may make an order permitting clearance of the goods for home consumption.

37[(2) Where the importer fails to pay the import duty under sub-section (1) 38[within two days, excluding holidays] from the date on which the bill of entry is returned to him for payment of duty, he shall pay interest at such rate not below 39[ten percent] and not exceeding thirty per cent per annum, as is for the time being fixed by the Board on such duty till the date of payment of the said duty:

PROVIDED that where the bill of entry is returned for payment of duty before the commencement of the Customs (Amendment) Act, 1991, and the importer has not paid such duty before such commencement, the date of return of such bill of entry to him shall be deemed to be the date of such commencement for the purpose of this section.]

30[PROVIDED FURTHER that if the Board is satisfied that it is necessary in the public interest so to do, it may, by order for reasons to be recorded, waive the whole or part of any interest payable under this section.]

**48. Procedure in case of goods not cleared, warehoused or transhipped within 40[thirty days] after unloading**

If any goods brought into India from a place outside India are not cleared for home consumption or warehoused or transhipped within 41 [thirty days] from the date of the unloading thereof at a customs station or within such further time as the proper officer may allow or if the title to any imported goods is relinquished, such goods may, after notice to the importer and with the permission of the proper officer, be sold by the person having the custody thereof:

PROVIDED that-

(a) animals, perishable goods and hazardous goods, may, with the permission of the proper officer, be sold at any time;

(b) arms and ammunition may be sold at such time and place and in such manner as the Central Government may direct.

Explanation: In this section, "arms" and "ammunition" have the meanings respectively assigned to them in the Arms Act, 1959 (54 of 1959).

**49. Storage of imported goods in warehouse pending clearance**

Where in the case of any imported goods, whether dutiable or not, entered for home consumption, the 23[Assistant Commissioner of Customs or Deputy Commissioner of Customs] is satisfied on the application of the importer that the goods cannot be cleared within a reasonable time, the goods may, pending clearance, be permitted to be stored in a public warehouse, or in a private warehouse if facilities for deposit in a public warehouse are not available; but such goods shall not be deemed to be warehoused goods for the purposes of this Act, and accordingly the provisions of Chapter IX shall not apply to such goods.

**CLEARANCE OF EXPORT GOODS**

**50. Entry of goods for exportation**

(1) The exporter of any goods shall make entry thereof by presenting to the proper officer in the case of goods to be exported in a vessel or aircraft, a shipping bill, and in the case of goods to be exported by land, a bill of export in the prescribed form.

(2) The exporter of any goods, while presenting a shipping bill or bill of export, shall at the foot thereof make and subscribe to a declaration as to the truth of its contents.

**51. Clearance of goods for exportation**

Where the proper officer is satisfied that any goods entered for export are not prohibited goods and the exporter has paid the duty, if any, assessed thereon and any charges payable under this Act in respect of the same, the proper officer may make an order permitting clearance and loading of the goods for exportation

**CHAPTER VIII: GOODS IN TRANSIT**

**52. Chapter not to apply to baggage, postal articles and stores**

The provisions of this Chapter shall not apply to (a) baggage, (b) goods imported by post, and (c) stores.

**26[53. Transit of certain goods without payment of duty**

Subject to the provisions of section 11, any goods imported in a conveyance and mentioned in

the import manifest or the import report, as the case may be, as for transit in the same conveyance to any place outside India or any customs station may be allowed to be so transited without payment of duty.

#### **54. Transshipment of certain goods without payment of duty**

(1) Where any goods imported into a customs station are intended for transshipment, a bill of transshipment shall be presented to the proper officer in the prescribed form:

9[PROVIDED that where the goods are being transhipped under an international treaty or bilateral agreement between the Government of India and Government of a foreign country, a declaration for transshipment instead of a bill of transshipment shall be presented to the proper officer in the prescribed form.]

(2) Subject to the provisions of section 11, where any goods imported into a customs station are mentioned in the import manifest or the import report, as the case may be, as for transshipment to any place outside India, such goods may be allowed to be so transhipped without payment of duty.

(3) Where any goods imported into a customs station are mentioned in the import manifest or the import report, as the case may be, as for transshipment-

(a) to any major port as defined in the Indian Ports Act, 1908 (15 of 1908), or the customs airport at Mumbai, Calcutta, Delhi or Chennai or any other customs port or customs airport which the Board may, by notification in the Official Gazette, specify in this behalf, or

(b) to any other customs station and the proper officer is satisfied that the goods are bonafide intended for transshipment to such customs station,

the proper officer may allow the goods to be transhipped, without payment of duty, subject to such conditions as may be prescribed for the due arrival of such goods at the customs station to which transshipment is allowed.

#### **55. Liability of duty on goods transited under section 53 or transhipped under section 54**

Where any goods are allowed to be transited under section 53 or transhipped under sub-section (3) of section 54 to any customs station, they shall, on their arrival at such station, be liable to duty and shall be entered in like manner as goods are entered on the first importation thereof and the provisions of this Act and any rules and regulations shall, so far as may be, apply in relation to such goods.]

#### **56. Transport of certain classes of goods subject to prescribed conditions**

Imported goods may be transported without payment of duty from one land customs station to another, and any goods may be transported from one part of India to another part through any foreign territory, subject to such conditions as may be prescribed for the due arrival of such goods at the place of destination.

### **CHAPTER IX : WAREHOUSING**

#### **57. Appointing of public warehouses**

At any warehousing station, the 23[Assistant Commissioner of Customs or Deputy Commissioner of Customs] may appoint public warehouse wherein dutiable goods may be deposited.

#### **58. Licensing of private warehouses**

(1) At any warehousing station, the 23[Assistant Commissioner of Customs or Deputy Commissioner of Customs] may license private warehouses wherein dutiable goods imported by or on behalf of the licensee, or any other imported goods in respect of which facilities for deposit

in a public warehouse are not available, may be deposited 42[\* \* \*].

(2) The 23[Assistant Commissioner of Customs or Deputy Commissioner of Customs] may cancel a licence granted under sub-section (1)-

(a) by giving one month's notice in writing to the licensee; or

(b) if the licensee has contravened any provisions of this Act or the rules or regulations or committed breach of any of the conditions of the licence:

PROVIDED that before any licence is cancelled under clause (b), the licensee shall be given a reasonable opportunity of being heard.

(3) Pending an enquiry whether a licence granted under sub-section (1) should be cancelled under clause (b) of sub-section (2), the 23[Assistant Commissioner of Customs or Deputy Commissioner of Customs] may suspend the licence.

### **59. Warehousing bond**

43[(1) The importer of any goods specified in 44[\*\*\*] sub-section (1) of section 61, which have been entered for warehousing and assessed to duty under section 17 or section 18 shall execute a bond binding himself in a sum equal to twice the amount of the duty assessed on such goods,-

(a) to observe all the provisions of this Act and the rules and regulations in respect of such goods;

(b) to pay on or before a date specified in a notice of demand,-

(i) all duties, and interest, if any, payable under sub-section (2) of section 61,

(ii) rent and charges claimable on account of such goods under this Act, together with interest on the same from the date so specified at the rate of six per cent per annum or such other rate as is for the time being fixed by the Board; and

(c) to discharge all penalties incurred for violation of the provisions of this Act and the rules and regulations in respect of such goods.]

(2) For the purposes of sub-section (1), the 23[Assistant Commissioner of Customs or Deputy Commissioner of Customs] may permit an importer to enter into a general bond in such amount as the 23[Assistant Commissioner of Customs or Deputy Commissioner of Customs] may approve in respect of the warehousing of goods to be imported by him within a specified period.

(3) A bond executed under this section by an importer in respect of any goods shall continue in force notwithstanding the transfer of the goods to any other person or the removal of the goods to another warehouse:

PROVIDED that where the whole of the goods or any part thereof are transferred to another person, the proper officer may accept a fresh bond from the transferee in a sum equal to twice the amount of duty assessed on the goods transferred and thereupon the bond executed by the transferor shall be enforceable only for a sum mentioned therein less the amount for which a fresh bond is accepted from the transferee.

45[59A. Conditions for warehousing of certain goods]

### **60. Permission for deposit of goods in a warehouse**

When the provisions of 28[section 59 46[\* \* \*]] have been complied with in respect of any goods, the proper officer may make an order permitting the deposit of the goods in a warehouse 42[\* \* \*].

### **21[61. Period for which goods may remain warehoused**

(1) Any warehoused goods may be left in the warehouse in which they are deposited or in any warehouse to which they may be removed,-

(a) in the case of capital goods intended for use in any hundred per cent export oriented undertaking, till the expiry of five years; and

(b) in the case of any other goods, till the expiry of one year,

and the date on which the proper officer has made an order under section 60 permitting the deposit of the goods in a warehouse:

PROVIDED that-

(i) in the case of any goods which are not likely to deteriorate, the period specified in sub-section (1) may, on sufficient cause being shown, be extended by the 5[Commissioner of Customs] for a period not exceeding six months and by the 5[Chief Commissioner of Customs] for such further period as he may deem fit;

(ii) in the case of any goods referred to in clause (b), if they are likely to deteriorate, the aforesaid period of one year may be reduced by the [Commissioner of Customs] to such shorter period as he may deem fit:

PROVIDED FURTHER that when the licence for any private warehouse is cancelled, the owner of any goods warehoused therein shall, within seven days from the date on which notice of such cancellation is given or within such extended period as the proper officer may allow, remove the goods from such warehouse to another warehouse or clear them for home consumption or exportation.

25[(2) Where any warehoused goods-

(i) specified in sub-clause (a) of sub-section (1), remain in a warehouse beyond the period specified in that sub-section by reason of extension of the aforesaid period or otherwise, interest at such rate as is specified in section 47 shall be payable, on the amount of duty payable at the time of clearance of the goods in accordance with the provisions of section 15 on the warehoused goods, for the period from the expiry of the said warehousing period till the date of payment of duty on the warehoused goods;

(ii) specified in sub-clause (b) of sub-section (1), remain in a warehouse beyond a period of six months, interest shall be payable at such rate or rates not exceeding the rate specified in section 47, as may be fixed by the Board, on the amount of duty payable at the time of clearance of the goods in accordance with the provisions of section 15 on the warehoused goods, for the period from the expiry of the said six months till the date of payment of duty on the warehoused goods:]

PROVIDED that the Board may, if it considers it necessary so to do in the public interest, by order and under circumstances of an exceptional nature, to be specified in such order, waive the whole or part of any interest payable under this section in respect of any warehoused goods:

PROVIDED FURTHER that the Board may, if it is satisfied that it is necessary so to do in the public interest, by notification in the Official Gazette, specify the class of goods in respect of which no interest shall be charged under this section.

Explanation : For the purposes of this section, "hundred per cent export oriented undertaking" has the same meaning as in Explanation 2 to sub-section (1) of section 3 of the Central Excises and Salt Act, 1944 (1 of 1944).]

## **62. Control over warehoused goods**

(1) All warehoused goods shall be subject to the control of the proper officer.

(2) No person shall enter a warehouse or remove any goods therefrom without the permission of the proper officer.

(3) The proper officer may cause any warehouse to be locked with the lock of the Customs Department and no person shall remove or break such lock.

(4) The proper officer shall have access to every part of a warehouse and power to examine the goods therein.

### **63. Payment of rent and warehouse charges**

(1) The owner of any warehoused goods shall pay to the warehouse keeper rent and warehouse charges at the rates fixed under any law for the time being in force or where no rates are so fixed, at such rates as may be fixed by the 5[Commissioner of Customs].

(2) If any rent or warehouse charges are not paid within ten days from the date when they became due, the warehouse-keeper may, after notice to the owner of the warehoused goods and with the permission of the proper officer cause to be sold (any transfer of the warehoused goods notwithstanding) such sufficient portion of the goods as the warehouse-keeper may select.

### **64. Owner's right to deal with warehoused goods**

With the sanction of the proper officer and on payment of the prescribed fees, the owner of any goods may either before or after warehousing the same-

(a) inspect the goods;

(b) separate damaged or deteriorated goods from the rest;

(c) sort the goods or change their containers for the purpose of preservation, sale, export or disposal of the goods;

(d) deal with the goods and their containers in such manner as may be necessary to prevent loss or deterioration or damage to the goods;

(e) show the goods for sale; or

(f) take samples of goods without entry for home consumption, and if the proper officer so permits, without payment of duty on such samples.

### **65. Manufacture and other operations in relation to goods in a warehouse**

(1) With the sanction of the 23[Assistant Commissioner of Customs or Deputy Commissioner of Customs] and subject to such conditions and on payment of such as may be prescribed, the owner of any warehoused goods may carry on any manufacturing process or other operations in the warehouse in relation to such goods.

(2) Where in the course of any operations permissible in relation to any warehoused goods under sub-section (1) there is any waste or refuse, the following provisions shall apply:

(a) if the whole or any part of the goods resulting from such operations are exported, import duty shall be remitted on the quantity of the warehoused goods contained in so much of the waste or refuse as has arisen from the operation carried on in relation to the goods exported:

PROVIDED that such waste or refuse is either destroyed or duty is paid on such waste or refuse as if it has been imported into India in that form;

(b) if the whole or any part of the goods resulting from such operation are cleared from the

warehouse for home consumption, import duty shall be charged on the quantity of the warehoused goods contained in so much of the waste or refuse as has arisen from the operations carried on in relation to the goods cleared for home consumption.

**66. Power to exempt imported materials used in the manufacture of goods in warehouse**

If any imported materials are used in accordance with the provisions of section 65 for the manufacture of any goods and the rate of duty leviable on the imported materials exceeds the rate of duty leviable on such goods, the Central Government, if satisfied that in the interests of the establishment or development of any domestic industry it is necessary so to do, may, by notification in the Official Gazette, exempt the imported materials from the whole or part of the excess rate of duty.

**67. Removal of goods from one warehouse to another**

The owner of any warehoused goods may, with the permission of the proper officer, remove them from one warehouse to another, 42[\*\*\*] subject to such conditions as may be prescribed for the due arrival of the warehoused goods at the warehouse to which removal is permitted.

**68. Clearance of warehoused goods for home consumption**

The importer of any warehoused goods may clear them for home consumption of-

(a) a bill of entry for home consumption in respect of such goods has been presented in the prescribed form;

(b) the import duty leviable on such goods and all penalties, rent, interest and other charges payable in respect of such goods have been paid; and

(c) an order for clearance of such goods for home consumption has been made by the proper officer.

**69. Clearance of warehoused goods for exportation**

(1) Any warehoused goods may be exported to a place outside India without payment of import duty if-

(a) a shipping bill or a bill of export has been presented in respect of such goods in the prescribed form;

(b) the export duty, penalties, rent, interest and other charges payable in respect of such goods have been paid; and

(c) an order for clearance of such goods for exportation has been made by the proper officer.

(2) Notwithstanding anything contained in sub-section (1), if the Central Government is of opinion that warehoused goods of any specified description are likely to be smuggled back into India, it may, by notification in the Official Gazette, direct that such goods, shall not be exported to any place outside India without payment of duty or may be allowed to be so exported subject to such restrictions and conditions as may be specified in the notification.

**70. Allowance in case of volatile goods**

(1) When any warehoused goods to which this section applies are at the time of delivery from a warehouse found to be deficient in quantity on account of natural loss, the 88[Assistant Commissioner of Customs or Deputy Commissioner of Customs] may remit the duty on such deficiency.

(2) This section applies to such warehoused goods as the Central Government, having regard to the volatility of the goods and the manner of their storage, may, by notification in the Official Gazette, specify.

**71. Goods not to be taken out of warehouse except as provided by this Act**

No warehoused goods shall be taken out of a warehouse except on clearance for home consumption or re-exportation, or for removal to another warehouse, or as otherwise provided by this Act.

**72. Goods improperly removed from warehouse, etc.**

(1) In any of the following cases, that is to say,-

- (a) where any warehoused goods are removed from a warehouse in contravention of section 71;
- (b) where any warehoused goods have not been removed from a warehouse at the expiration of the period during which such goods are permitted under section 61 to remain in a warehouse;
- (c) where any warehoused goods have been taken under section 64 as samples without payment of duty;
- (d) where any goods in respect of which a bond has been executed under 28[section 59 47[\* \* \*]] and which have not been cleared for home consumption or exportation are not duly accounted for to the satisfaction of the proper officer;

the proper officer may demand, and the owner of such goods shall forth with pay, the full amount of duty charge able on account of such goods together with all penalties, rent, interest and other charges payable in respect of such goods.

(2) If any owner fails to pay any amount demanded under sub-section (1), the proper officer may, without prejudice to any other remedy, cause to be detained and sold, after notice to the owner (any transfer of the goods notwithstanding) such sufficient portion of his goods, if any, in the warehouse, as the said officer may select. .

**73. Cancellation and return of warehousing bond**

When the whole of the goods covered by any bond executed under 28[section 59 46[\*\*\*]] have been cleared for home consumption or exported or are otherwise duly accounted for, and when all amounts due on account of such goods have been paid, the proper officer shall cancel the bond as discharged in full, and shall on demand deliver it, so cancelled, to the person who has executed or is entitled to receive it.

**CHAPTER X: DRAWBACK****74. Drawback allowable on re-export of duty-paid goods**

(1) When any goods capable of being easily identified which have been imported into India and upon which 48[any duty has been paid on importation,-

(i) are entered for export and the proper officer makes an order permitting clearance and loading of the goods for exportation under section 51; or

(ii) are to be exported as baggage and the owner of such baggage, for the purpose of clearing it, makes a declaration of its contents to the proper officer under section 77 (which declaration shall be deemed to be an entry for export for the purposes of this section) and such officer makes an order permitting clearance of the goods for exportation; or

(iii) are entered for export by post under section 82 and the proper officer makes an order permitting clearance of the goods for exportation,

ninety-eight per cent, of such duty shall, except as otherwise here in after provided, the re-paid as drawback, if]-

(a) the goods are identified to the satisfaction of the 23[Assistant Commissioner of Customs or Deputy Commissioner of Customs] as the goods which were imported; and

(b) the goods are entered for export within two years from the date of payment of duty on the importation thereof :

PROVIDED that in any particular case the aforesaid period of two years may, on sufficient cause being shown, be extended by the Board by such further period as it may deem fit.

(2) Notwithstanding anything contained in sub-section (1), the rate of drawback in the case of goods which have been used after the importation thereof shall be such as the Central Government, having regard to the duration of use, depreciation in value and other relevant circumstances, may, by notification in the Official Gazette, fix.

30[(3) The Central Government may make rules for the purpose of carrying out the provisions of this section and, in particular, such regulations may-

(a) provide for the manner in which the identity of goods imported in different consignments which are ordinarily stored together in bulk, may be established;

(b) specify the goods which shall be deemed to be not capable of being easily identified; and

(c) provide for the manner and the time within which a claim for payment of drawback is to be filed.]

(4) For the purposes of this section-

(a) goods shall be deemed to have been entered for export on the date with reference to which the rate of duty is calculated under section 16;

(b) in the case of goods assessed to duty provisionally under section 18, the date of payment of the provisional duty shall be deemed to be the date of payment of duty.

#### **75. Drawback on imported materials used in the manufacture of goods which are exported**

(1) Where it appears to the Central Government that in respect of goods of any class or description 49[manufactured, processed or on which any operation has been carried out in India] 6[being goods which have been entered for export and in respect of which an order permitting the clearance and loading thereof for exportation has been made under section 51 by the proper officer], 48[or being goods entered for export by post under section 82 and in respect of which an order permitting clearance for exportation has been made by the proper officer] a drawback should be allowed of duties of customs chargeable under this Act on any imported materials of a class or description used in the 50[manufacture or processing of such goods or carrying out any operation on such goods], the Central Government may, by notification in the Official Gazette, direct that drawback shall be allowed in respect of such goods in accordance with, and subject to, the rules made under sub-section (2):

51[PROVIDED that no drawback shall be allowed under this sub-section in respect of any of the aforesaid goods which the Central Government may, by rules made under sub-section (2), specify, if the export value of such goods or class of goods is less than the value of imported materials used in the 50[manufacture or processing of such goods or carrying out any operation on such goods] or class of goods, or is not more than such percentage of the value of the imported materials used in the 50[manufacture or processing of such goods or carrying any operation on such goods] or class of goods as the Central Government may, by notification in the Official Gazette, specify in this behalf:

PROVIDED FURTHER that where any drawback has been allowed on any goods under this sub-section and the sale proceeds in respect of such goods are not received by or on behalf of the exporter in India within the time allowed under the Foreign Exchange Regulation Act, 1973 (46 of 1973), such drawback shall be deemed never to have been allowed and the Central Government may, by rules made under sub-section (2), specify the procedure for the recovery or adjustment of the amount of such drawback];

31[(1A) Where it appears to the Central Government that the quantity of a particular material imported into India is more than the total quantity of like material that has been used in the goods 49[manufactured, processed or on which any operation has been carried out in India] and exported outside India, then, the Central Government may, by notification in the Official Gazette, declare that so much of the material as is contained in the goods exported shall, for the purpose of sub-section (1), be deemed to be imported material.]

(2) The Central Government may make rules for the purpose of carrying out the provisions of sub-section (1) and, in particular, such rules may provide,-

30[(a) for the payment of drawback equal to the amount of duty actually paid on the imported materials used in the manufacture or processing of the goods or carrying out any operation on the goods or as is specified in the rules as the average amount of duty paid on the materials of that class or description used in the manufacture or processing of export goods or carrying out any operation on export goods of that class or description either by manufacturers generally or by persons processing or carrying on any operation generally or by any particular manufacturer or particular person carrying on any process or other operation, and interest, if any, payable thereon ;]

51[(aa) for specifying the goods in respect of which no drawback shall be allowed;

(ab) for specifying the procedure for recovery or adjustment of the amount of any drawback which had been allowed under sub-section (1) 30[or interest chargeable thereon];]

(b) for the production of such certificates, documents and other evidence in support of each claim of drawback as may be necessary;

(c) for requiring the 5[manufacturer or the person carrying out any process or other operation] to give access to every part of his manufactory to any officer of customs specially authorised in this behalf by the 23[Assistant Commissioner of Customs or Deputy Commissioner of Customs] to enable such authorised officer to inspect the processes of 5[manufacture, process or any other operation carried out] and to verify by actual check or otherwise the statements made in support of the claim for drawback.

30[(d) for the manner and the time within which the claim for payment drawback may be filed;]

9[(3) The power to make rules conferred by sub-section (2) include the power to give drawback with retrospective effect from a date not earlier than the date of changes in the rates of duty on inputs used in the export goods.]

### Foot Notes

1 The Act was extended to Sikkim vide Notification No. 185/79-Customs, dated 1st. September, 1979, w.e.f. 1st. October, 1979.

2 1st. February, 1963, vide Noti. No. G.S.R. 155, dated 23rd. January, 1963. GOI, Ext. Part, II , s. 3 (1) p. 73.

- 3 Substituted by Finance Act No. 44 of 1980, w.e.f. 11th. October, 1982.
- 4 Substituted by Central Boards of Revenue Act (Act No. 54 of 1963), w.e.f. 1st. January, 1964.
- 5 Substituted by Finance Act No. 22 of 1995.
- 6 Inserted by Finance Act No. 11 of 1983, w.e.f. 13th. May, 1983.
- 7 Inserted by Central Excises and Customs Laws (Amendment) Act No. 40 of 1991, w.e.f. 20th. September, 1991.
- 8 Substituted by Customs, Central Excises and Salt and Central Boards of Revenue (Amendment) Act No. 25 of 1978, w.e.f. 1st. July, 1978.
- 9 Inserted by the Finance Act 1999, dated 11th. May, 1999.
- 10 Chapters IVA, IVB & IVC inserted by Customs (Amendment) Act, 1969, w.e.f. 3rd. January, 1969.
- 11 Substituted by Customs Tariff Act, Act No. 51 of 1975, w.e.f. 2nd. August, 1976.
- 12 Substituted by Customs and Central Excises (Amendment) Act No. 30 of 1963, w.e.f. 1st. October, 1963.
- 13 Clause (a) of sub-section (1) of section 14 merged with sub-section (1) aforesaid by Not. No. 50 / 88 (NT)-Cus. dated 18th. July, 1988 of Customs (Amendment) Act No. 27 of 1988, w.e.f. 16th. August, 1988.
- 14 Substituted by Customs, Central Excises & Salt and Central Board of Revenue (Amendment) Act No. 25 of 1978, w.e.f. 1st. July, 1978.
- 15 Inserted by Customs (Amendment) Act No. 27 of 1988, w.e.f. 16th. August, 1988.
- 16 Substituted by Customs (Amendment) Act No. 20 of 1966.
- 17 Omitted by Customs, Central Excises and Salt and Central Boards of Revenue (Amendment) Act, Act No. 25 of 1978, w.e.f. 1st. July, 1978.
- 18 Substituted by Finance (No. 2) Act, Act No. 33 of 1996.
- 19 Substituted by Finance Act, Act No. 23 of 1986, w.e.f. 13th. May, 1986.
- 20 Substituted by Act No. 56 of 1974.
- 21 Substituted by Finance Act, Act No. 32 of 1994, w.e.f. 13th. May, 1994.
- 22 Omitted by Act No. 22 of 1995.
- 23 Substituted for "Assistant Commissioner of Customs" by Finance Act, Act No. 1999, dated 11th. May, 1999.
- 24 Substituted by Finance Act, Act No. 11 of 1983, w.e.f. 13th. May, 1983.
- 25 Substituted by the Finance Act, 1999, dated 11th. May, 1999.

- 26 Inserted by Finance (No. 2) Act, 1998, w.e.f. 1st. April, 1998.
- 27 Substituted by Central Excises and Customs Laws (Amendment) Act, Act No. 40 of 1991, w.e.f. 20th. September, 1991.
- 28 Substituted by Customs (Amendment) Act, Act No. 55 of 1991, w.e.f. 23rd, December, 1991.
- 29 Inserted by Finance (No. 2) Act, 1996 (Act No. 33 of 1996).
- 30 Inserted by Finance Act, Act No. 22 of 1995.
- 31 Inserted by Customs, Central Excises & Salt and Central Boards of Revenue (Amendment) Act, Act No. 25 of 1978, w.e.f. 1st. July, 1978.
- 32 Re-numbered by Notification No. 18 / 88 (NT)-CE dated 29-6-1988 of Customs and Central Excise Excises Law (Amendment) Act, Act No. 29 of 1988, w.e.f. 1st. July, 1988.
- 33 Substituted by CE&C Law (Amendment) Act, Act No. 40 of 1991, w.e.f. 20th. September, 1991.
- 34 Substituted by Finance (No.2) Act, 1996 for the words "Where a person".
- 35 Substituted by Finance (No. 2) Act, 1996.
- 36 Renumbered by Customs (Amendment) Act, Act No. 25 of 1991, w.e.f. 23rd, December, 1991.
- 37 Inserted by Customs (Amendment) Act No. 55 of 1991, w.e.f. 23rd, December, 1991.
- 38 Substituted for the words "within seven days" by the Finance Act, 1999, dated 11th. May, 1999.
- 39 Substituted for the words "twenty per cent" by Finance Act, Act No. 22 of 1995, w.e.f. 1st. April, 1995.
- 40 Substituted for the words "two months" by Customs (Amendment) Act, Act No. 55 of 1991, w.e.f. 23rd, December, 1991.
- 41 Substituted for the words "forty-five days" by Customs (Amendment) Act, Act No. 55 of 1991, w.e.f. 23rd, December, 1991.
- 42 The words "without payment of duty" omitted by Customs (Amendment) Act, Act No. 55 of 1991, w.e.f. 23rd, December, 1991.
- 43 Substituted by Customs (Amendment) Act, 1991, w.e.f. 23rd, December, 1991.
- 44 The words "clause (a) of" omitted by Finance Act, Act No. 32 of 1994, w.e.f. 13th. May, 1994.
- 45 Omitted by Finance Act, Act No. 32 of 1994, w.e.f. 13th. May, 1994.
- 46 The words "or section 59A" omitted by Finance Act, Act No. 32 of 1994, w.e.f. 13th. May, 1994.
- 47 The words, figures and letter "or section 59A" omitted by Finance Act, Act No. 32 of 1994, w.e.f.
- 48 Substituted by Customs (Amendment) Act, Act No. 80 of 1985, w.e.f. 27-12-1985.

49 Substituted for the words "manufactured in India" by Finance Act, Act No. 22 of 1995, w.e.f. 1st. April, 1995.

50 Substituted for the words "manufacture of such goods" by the Finance Act, Act No. 22 of 1995, w.e.f. 1st. April, 1995.

51 Inserted by Finance (No. 2) Act, Act No. 49 of 1991